



IS THIS PROTECTION?

Analyzing India's Approach to the Rescue and Reintegration of Children Trafficked for Labor Exploitation

*An Investigation into Current Anti-Trafficking Practices in Rajasthan and Bihar
by the FXB Center for Health and Human Rights at Harvard University*

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The FXB Center for Health and Human Rights at Harvard University is an interdisciplinary center that conducts rigorous investigation of the most serious threats to health and wellbeing globally. We work closely with scholars, students, the international policy community, and civil society to engage in ongoing strategic efforts to promote equity and dignity for those oppressed by grave poverty and stigma around the world.

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A young boy is questioned at the railway police station to determine where his family is.

I. EXECUTIVE SUMMARY

This report provides a comprehensive and critical analysis of the Indian government's efforts to rescue and reintegrate children trafficked for their labor.¹ Despite frequent expressions of public concern, the government's main responses to this entrenched problem have not been carefully evaluated to date. As a result, no metrics for gauging reintegration success have been developed, nor is there a process for evaluating the impact of interventions over time. This paper measures existing legal and policy frameworks against current realities, based on empirical findings from a qualitative study carried out by the FXB Center for Health & Human Rights at Harvard University.

The survey undergirding the study produced rich data from interviews with 49 governmental and non-governmental actors in three North Indian states: the trafficking source state of Bihar, the transit state of Delhi, and the trafficking destination state of Rajasthan. The results reveal startling inconsistency between policy commitments and on-the-ground realities.

Raids of workplaces that rely on forced child labor are executed with variable levels of success and attention to the best interests of trafficked child laborers. A lack of detailed standard operating procedures and centralized information systems leads to confusion around responsibilities, as well as reactive, poorly planned raids that are often overly dependent on nonprofit leadership. The quality of immediate post-rescue care delivered is also inconsistent: children do not receive adequate medical or counseling support and are often subjected to multiple interviews about their experience. Legally mandated and essential First Information Reports, prepared by the police to initiate criminal proceedings, are sporadically filed and victimizers are rarely prosecuted.

1. Note that original spelling of 'labour' has been maintained when referring to Indian titles, laws and programs.

[Our] results reveal startling inconsistency between policy commitments and on-the-ground realities.

Existing reintegration frameworks also fail to protect children's rights and needs. They do not comprehensively address the diverse post-rescue needs of trafficked children. Rather, despite incontrovertible evidence to the contrary, they treat reintegration as a fixed, short-term process. The significant and complex risks facing trafficked children following return to their families are not carefully addressed and standards for gauging what counts as appropriate alternative accommodation are lacking. Education programs work in isolation from formal schools and do not adequately address the curricular and teacher training issues that reintegration of trafficked children raise. Children who have never had an opportunity to attend school consistently need dedicated services to facilitate their integration into a system of learning; and their families need structured and ongoing support to mitigate the risk that a child will be re-trafficked for economic reasons. Instead, at present, the challenge of supporting the family's economic reintegration is, at best, reduced to the provision of lump sum compensation. Finally, the acute health needs of rescued children, both physical and psychological, are acknowledged as an afterthought, without concrete policy initiatives to ensure delivery of suitable services.

This report outlines several overarching challenges to the successful rescue and reintegration of children trafficked for labor: failure to provide adequate reintegration services; a focus on short term rescue from child labor in place of systemic child welfare approaches; organizational failures including lack of clear accountability, inter-agency coordination and training; poorly structured NGO-government partnerships; insufficient human and financial resources; lack of centralized information systems; and weak policy frameworks.

The report concludes by making several recommendations to address these gaps. One critical recommendation is an insistence on the prioritization of a child rights approach to intervention, so that the child's best interests and views are always a primary consideration. Another overarching recommendation highlights the imperative of instituting comprehensive and sustained reintegration efforts instead of perpetuating the current short term approach that simply returns trafficked children to circumstances that led to trafficking in the first place.

This analysis should form the basis for future research, debate and, most important, concrete reforms to protect children from exploitation. Trafficking for forced labor constitutes a gross violation of rights that affects hundreds of thousands of Indian children every year. It is the government's obligation to ensure an end to these abusive practices and to institute sustained interventions that deliver access to health, education and financial security for these children and their families.

Existing reintegration frameworks do not comprehensively address the diverse post-rescue needs of trafficked children ... they treat reintegration as a fixed, short-term process.

II. INTRODUCTION

Child trafficking is the act of recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation, either within or outside a country, regardless of the use of illicit means such as force or coercion.² Children are trafficked for purposes including sexual exploitation, organ sale, and forced labor.

The trafficking of children for forced labor is a matter of grave concern in India. The Census of India in 2011 estimated that 4.3 million children were engaged in child labor. Government statistics indicate that over 126,000 cases of trafficking for child labor were registered during 2011-12. According to the National Crime Records Bureau, a further hundred thousand children go missing in India every year, many of whom are also thought to be trafficked for labor.³ The National Commission for the Protection of Child Rights has estimated that of the children who are trafficked, 92 per cent have not been rescued, 6 per cent have been rescued once, and 2 percent have been rescued twice.⁴

Considerable measurement challenges mean that these estimates grossly underreport the extent of the problem.⁵ Authoritative and credible sources estimating the numbers of children trafficked for labor annually are not available.

In 2013, the United Nations Office on Drugs and Crime (UNODC) reported an increasing trend in migration and trafficking for labor across India:

Compelled by the socio-economic conditions, a large number of children are migrating from economically backward areas to big cities for work. In many of these cases, children are being trafficked by middle men and agents who are bringing them to the employers in the city by extending meagre advances to the parents and giving false assurances of lucrative jobs etc.⁶

2 UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000, article 3; see also Council of Europe, *Council of Europe Convention on Action Against Trafficking in Human Beings*, 16 May 2005, CETS 197, article 4. See also *infra* notes 10-12 discussing implementing legislation in India.

3 United Nations Office for Drugs and Crime (UNODC), *Current Status of Victim Service Providers and Criminal Justice Actors in India on Anti Human Trafficking* (New Delhi: UNODC, 2013), accessed November 8, 2015, https://www.unodc.org/documents/southasia/reports/Human_Trafficking-10-05-13.pdf, 9; CRY Organization, "Missing or Sold? Child Trafficking in India," in *Human Trafficking: The Stakeholders' Perspective* ed. Veerendra Mishra, 136.

4 Shantha Sinha, *National Commission for Protection of Child Rights (NCPCR): The First Six Years* (New Delhi, NCPCR, May 2013), accessed November 8, 2015, http://www.ncpcr.gov.in/view_file.php?fid=407, 13.

5 *Right to Education and Total Abolition of Child Labour: Freedom and Dignity for all Children*, Briefing Papers, National Commission for the Protection of Child Rights, accessed November 8, 2015, ncpcr.gov.in/showfile.php?lid=138, 1.

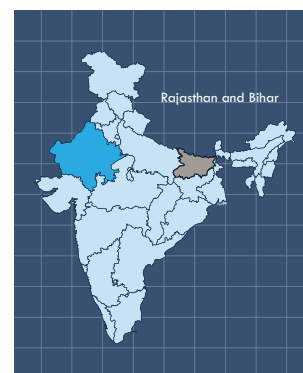
6 UNODC, *Current Status of Victim Service Providers and Criminal Justice Actors in India on Anti Human Trafficking*, 9.

The majority of these children work in industries such as carpet making, *zari* making (gold thread work), jewelry units, *beedi* factories,⁷ brick kilns, domestic help, *dhabas* (local highway restaurants) and tea stalls. These are often highly exploitative environments, where children work long hours in unhygienic and dangerous working conditions. Children are often restricted to the confines of the work places and are vulnerable to abuse.

According to the UNODC, “the State of Bihar is a source area for trafficking of children for forced labor. Thousands of children are trafficked every year to work in towns or cities in various unorganised sectors of work.”⁸ Child trafficking is also “a serious issue” in Rajasthan, which is “a source of child labor (as children cross borders to enter Gujarat to work), but also a destination state for child labor as a large number of children from West Bengal, Bihar, Uttar Pradesh, Delhi and Jharkhand come to Rajasthan for work.”⁹

In 2011, the Government of India ratified the United Nations Convention against Transnational Organised Crime (UNTOC) and its three supplementing Protocols. India is also a signatory to the UN Convention on the Rights of the Child (CRC). These international normative frameworks require the Government to integrate the following principles into its rescue and reintegration response: protection of rights of the child, best interest of the child, protection of the child, equality and non-discrimination, avoidance of harm, non-criminalization of the child, respect for the views of the child, right to confidentiality, [and] right to information.¹⁰

The Indian Constitution places primary responsibility on the State to ensure that children’s needs are met and their human rights fully protected.¹¹ Articles 23 and 24 safeguard all children below the age of 14 from being in factories, mines and any other hazardous employment and give the child a right not to be used in “forced” or “bonded” labor.¹²



7 A *beedi* is a thin, hand-rolled cigarette.

8 UNODC, *Current Status of Victim Service Providers and Criminal Justice Actors in India on Anti Human Trafficking*, 72.

9 *Ibid*, 141.

10 *Ibid*, 11.

11 Constitution of India, 1950.

12 *Ibid*, articles 23 & 24.

The Indian Penal Code, 1860 (IPC), and special legislations such as the Immoral Trafficking (Prevention) Act of 1956 (ITPA), the Juvenile Justice Act (2000), the Bonded Labour (Abolition) Act of 1976 and the Child Labour (Prohibition and Regulation) Act of 1986 provide the legal framework for response agencies. Also relevant is the 2009 Right to Education Act, which provides that all children aged 6 to 14 years must receive free and compulsory education.¹³ In May 2015 the union cabinet approved an amendment to India's Child Labour Prohibition Act that permits children below the age of 14 to work in select 'non-hazardous' family enterprises, including industries carpet-weaving, *beedi* (cigarette) rolling and gem-polishing.¹⁴

The country's flagship National Child Labour Project (NCLP) was created in 1988 to "suitably rehabilitate children withdrawn from employment."¹⁵ Other programs were subsequently created to provide complementary services to children not in areas covered by the NCLP: the Sarva Shiksha Abhiyan (SSA) or Education for All program, the Scheme for Working Children in Need of Care and Protection, and the Integrated Child Protection Scheme (ICPS). In 2011, the government initiated the Grant in Aid (GIA) Scheme that covers 75% of the project costs incurred by NGOs working towards the elimination of the child labor in districts not covered by the NCLP.

In September 2006, the Ministry of Home Affairs established the Anti Human Trafficking Units (AHTUs). These are mandated to facilitate interagency coordination for the rescue of children and post-rescue care efforts; to monitor interventions and provide feedback; and also to collect and analyze data related to trafficking to be shared with State Governments and the media as appropriate.¹⁶ According to the UNODC: "AHTUs are a field functional unit to address human trafficking in a holistic manner."¹⁷ As of December 2014 there were AHTUs in 225 of India's 640 districts.¹⁸

13 The RTE stipulates that private schools reserve 25 per cent of seats at the entry level for children belonging to several specified 'disadvantaged groups' and 'weaker sections'. See Mohamed Imranullah, "Advantages and disadvantages of RTE Act," *The Hindu* (May 22, 2013), accessed at: www.thehindu.com/news/cities/Madurai/advantages-and-disadvantages-of-rte-act/article4735501.ece

14 Chetan Chauhan, "Cabinet clears changes to Child Labour Act, those under 14 can work in family businesses," *The Hindu Times*, May 13, 2015, www.hindustantimes.com/india/cabinet-clears-changes-to-child-labour-act-those-under-14-can-work-in-family-businesses/story-mAq75Cl10pnUYot8RAiOI.html

15 Ministry of Labour & Employment, Government of India, "National Policy on Child Labour – 1987," accessed June 22, 2015, <http://nlrd.org/resources-childs-rights/child-labour/schemes-policy-document-child-labour/national-child-labour-project-nclpswa>.

16 UNODC, *Current Status of Victim Service Providers and Criminal Justice Actors in India on Anti Human Trafficking*, 29-30.

17 UNODC, *Compendium on Best Practices On Anti Human Trafficking by Law Enforcement Agencies* (New Delhi, Government of India, 2007), accessed at: <http://www.unhcr.org/50ab4d2bf.pdf>, 9.

18 Indian Ministry of Home Affairs, "Launching of Web Portal on Anti Human Trafficking," Government of India, February 20, 2014, pib.nic.in/newsite/PrintRelease.aspx?relid=104002.



Until 2008 there were no consolidated guidelines for the rescue and reintegration of children trafficked for labor in India. That year, the Ministry of Labour & Employment published the Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked & Migrant Child Labour (“Protocol on Trafficked and Migrant Child Labour”) in order to provide “clearly laid out mechanisms and supporting instructions, which could be relied upon by various stakeholders for taking all the necessary steps.”¹⁹

Finally, State Governments have taken additional initiatives to address this problem. In 2010, the Bihar Government initiated a State Action Plan – the Astitva Policy – that coordinates State, District and Panchayat (village) task forces in order to “care and protect trafficking victims at all stages of rehabilitation and also ensure strong prosecution of cases.”²⁰ The Rajasthan Government has developed standard operating protocols for protecting children from trafficking and from forced labor.²¹

19 Indian Ministry of Labour and Employment, “Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour,” 2008, accessed November 10, 2015, <http://pblabour.gov.in/Pdfs/protocol.pdf>, 8.

20 UNODC, *Current Status of Victim Service Providers and Criminal Justice Actors in India on Anti Human Trafficking*, 84.

21 Government of Rajasthan Department for Child Rights, “Standard Operating Procedures,” accessed December 7, 2015, www.dcrraj.in/en/knowledge-hub-2/?cat=37

III. RESEARCH & METHODOLOGY

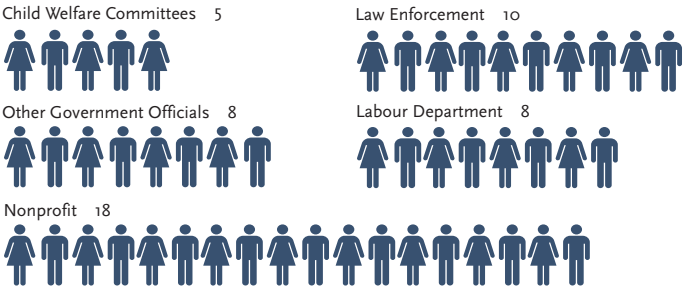
This field research study, carried out by the Harvard FXB Center between 2014-2015, explores the reality of rescue and reintegration practices with respect to labor trafficked children from the source state of Bihar, the transit city of New Delhi, and the destination state of Rajasthan.²²

The report is based on qualitative data collected between October 2014 and January 2015 by FXB India Suraksha, a registered Indian NGO.²³ The field research involved extensive qualitative interviews carried out with 49 key informants from the Indian National Department of Labour, other federal and state government representatives, representatives from local Child Welfare Committees in both destination and home states, law enforcement officials, and representatives from national and local NGOs. They were identified through desk research and the advice of the local partners and members of the community advisory board (CAB) that was established to review all research methods and survey instruments.

FXB India Suraksha used one of seven questionnaires developed to tap the knowledge that each key informant had about the process of rescue and reintegration. Informants were interviewed in Hindi and/or English in private, secure locations. To protect their confidentiality, the identities and positions of respondents have been anonymized.

The study compares the results of this field research to relevant Indian anti-trafficking laws, regulations, and protocols in order to identify gaps between law and implementation. This analysis is complemented by a comprehensive review of best practices for rescue and reintegration of trafficked children from existing academic literature.

FXB Survey Participants 49



²² These states each have multiple functions within the trafficking continuum, yet the focus of this study is on their specific roles as stated above.

²³ The Principal Investigator of this study was Jacqueline Bhabha, Director of Research at the Harvard FXB Center, Professor of the Practice of Health and Human Rights at the Harvard School of Public Health, the Jeremiah Smith Jr. Lecturer in Law at Harvard Law School, and an Adjunct Lecturer in Public Policy at the Harvard Kennedy School. The research team consisted of Angela Duger, J.D., a Research Associate at the Harvard FXB Center, and Satya Prakash, Senior Program Manager at FXB India Suraksha based in New Delhi. Mr. Prakash is a child labor and child trafficking expert from Bihar. He holds an M. Phil degree from Delhi School of Economics, University Of Delhi, and has worked extensively in the areas of Child Rights and combating Human Trafficking.

IV. RESCUE

WHAT IS RESCUE?

UNICEF describes four primary methods for the withdrawal of children from harmful working conditions: rescue, negotiated withdrawal, escape/asylum, and unassisted exit.²⁴ The Government of India's policy response to children trafficked for labor focuses on rescue. The Protocol on Trafficked and Migrant Child Labour lays out guidelines intended to guide rescue operations. These are supplemented by the "Standard Operating Procedures to handle Trafficking of Children for Child Labour" issued by the Indian Ministry of Home Affairs in 2013. The Protocol defines rescue as follows:

*All activities associated with organizing inspections and raids, for identification, establishment, and withdrawal of child labour engaged in prohibited work as specified under the Child Labour (Prohibition and Regulation) Act, with the aim of securing the rehabilitation and social reintegration of the rescued child.*²⁵

The United Nations Inter-Agency Project on Human Trafficking (UNIAP) emphasizes that, "raid/rescue operations should be conducted only when absolutely necessary, after systematic risk assessment and planning. Such operations carry high risks."²⁶ A 2015 assessment by UNICEF of raids targeting child victims of trafficking between India and Bangladesh concluded that these rescue operations were "moderately well organized" and often "conducted with reasonable protection and care of the rescued child," but that "rescue remains challenging for those involved in the process."²⁷ This study largely confirms that mixed assessment and reveals several additional difficulties experienced by stakeholders.

"Raid/rescue operations should be conducted only when absolutely necessary, after systematic risk assessment and planning. Such operations carry high risks."

24 United Nations Children's Fund (UNICEF), "Rapid Assessment of Existing Practices and Mechanisms Concerning Rescue, Recovery and Reintegration of Child Victims of Trafficking between India and Bangladesh," (New Delhi: UNICEF, 2008), accessed on March 5, 2015, http://www.childtrafficking.com/Docs/unicef_rapid_assessment_0811.pdf.

25 Indian Ministry of Labour and Employment, "Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour," 2008, accessed November 10, 2015, <http://pblabour.gov.in/Pdfs/protocol.pdf>, 15.

26 United Nations Inter-Agency Project on Human Trafficking (UNIAP), *Raids, Rescues, Resolution Removing Victims From Sex And Labor Exploitation* (Bangkok: UNIAP, 2008), accessed November 8, 2015, http://www.no-trafficking.org/reports_docs/siren/GMS-06%20SIREN%20raids%20rescues%20resolution%20FINAL.pdf, 2.

27 UNICEF, "Rapid Assessment of Existing Practices and Mechanisms Concerning Rescue, Recovery and Reintegration of Child Victims of Trafficking between India and Bangladesh," 14-15.

MAIN FINDINGS:

- **Over-reliance on nonprofit organizations in the execution of raids.** Although the Anti Human Trafficking Units were established at the local level in order to provide coordination by government officials of rescue and post-rescue procedures, survey responses indicate that they in reality play little part in the process. Similarly, the Indian Labour Department is not always active in raids in the manner required by the Protocol. Nonprofits help to fill these gaps. One NGO respondent stated that their organization had previously initiated rescue operations without informing local authorities at all. Other studies confirm that government stakeholders rely heavily on nonprofit organizations to execute raids.²⁸ This means that raids are often conducted in an ad hoc manner, without accountability or monitoring.
- **Rescue operations often do not serve the best interests of the child.** Survey responses reveal that raids are often carried out in a manner that does not adequately mitigate additional trauma to trafficked children. Post-rescue healthcare is often insufficient. Multiple respondents noted that rescue operations can increase the risk of retaliation against children by the employer if the rescue is unsuccessful. In addition, there are significant risks of retaliation against the NGO involved.²⁹
- **Rescue operations are not supported by centralized intelligence systems.** A lack of information sharing means that raids are carried out on a reactive basis, based on tipoffs, rather than as the result of proactive investigations. This also contributes to poor coordination and planning.
- **Rescue operations do not result in appropriate criminal action against employers or traffickers.** Respondents stated that employers are rarely prosecuted for their crimes, contributing to a wide culture of impunity.
- **There are no guidelines for rescuing children from situations of trafficking prior to arrival at the site of exploitation.** Existing protocols do not address situations where children are intercepted in transit, such as at bus stops, railway stations. As one NGO participant commented, “Rescue cannot be seen as an act consequent to raids alone.”

Raids are often conducted in an ad hoc manner, without accountability or monitoring.

²⁸ Sanjai Bhatt, *Not Made By Children Project*, p.34. *Not Made By Children Project: an impact assessment study* (September 2013), accessed on March 10, 2015, <http://www.globalmarch.org/sites/default/files/Not%20made%20oby%20Chidren%20oproject-%20Final%20Report.pdf>, 34.

²⁹ Specifically with respect to retaliation, one NGO respondent stated: “Suppose team goes and it is not able to rescue the child, that child will be put into further trauma ... Recently there has been stoning against our team ... a police person was slightly injured”. Another NGO respondent stated: “Some of the times rescue team was beaten up. A case happened in Patliputra. People had beaten up and our people had to run away from there. Because they were telling all the details about children and their parents”.

There are very few systematic evaluations of rescue and raid operations as a method to combat child labor. This significant deficit has meant that a considered and rights-based approach to rescuing children from situations of forced labor is lacking. In India, widespread media coverage of raids plays an important role in simplifying the complex underlying social and economic problems that perpetuate this problem.³⁰ Publicity generates additional risks of retaliation against rescued children, increased social stigma and difficulty in reintegration.

IDENTIFICATION OF VICTIMS AND PRE-RESCUE PLANNING

The Protocol on Trafficked and Migrant Child Labour allocates primary responsibility for rescue operations to the Department of Labour. It states that rescue operations can be initiated after receipt of information from “a primary source, such as a child labour or relative of a child labour or anyone else on behalf of the child,”³¹ or alternatively from secondary sources such as surveys conducted of the numbers of children not in school from Sarva Shiksha Abhiyan, the State’s compulsory primary education program, surveys conducted by the Department of Labour or community micro-planning.³² The Protocol requires that this information be reviewed for its authenticity within 72 hours but does not specify how it should be verified.³³

The Protocol makes no strict requirements for the rescue team composition, but recommends that it include at least four representatives drawn from the following institutions: the Department of Labour; the Police; local self government (panchayats etc); Social Welfare Officer or child welfare committees; NGOs, social organizations, or other responsible citizens; a doctor with first aid kit; and a lady Police/volunteer.³⁴ These recommendations differ from those made by the Ministry of Home Affairs standard operating procedures, which do not include requirements for a doctor or Labour Department official.³⁵

30 Kwame Anthony Appiah & Martin Bunzl, eds., *Buying Freedom: The Ethics and Economics of Slave Redemption* (Princeton: Princeton University Press: 2007), 9; Melissa Ditmore, “The Use of Raids to Fight Trafficking in Persons,” Sex Workers Project (2009), accessed September 24, 2013, <http://sexworkersproject.org/downloads/swp-2009-raids-and-trafficking-report.pdf>; Jyoti Sanghera et al., “Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights around the World,” Global Alliance Against Traffic in Women (2007), accessed October 19, 2013, http://www.gaatw.org/CollateralDamage_Final/singlefile_CollateralDamagefinal.pdf.

31 Ministry of Labour and Employment, “Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour,” 21.

32 Ibid.

33 Ibid, 22.

34 Ibid, 24.

35 Ministry of Home Affairs, “Standard Operating Procedure to handle Trafficking of Children for Child Labour - measures to be taken for rescue of trafficked child labourers and against the traffickers/employers,” Government of India (December 8, 2013), accessed at: <http://stophumantrafficking-mha.nic.in/writereaddata/SOP-TraffickingOfChild.pdf>

The Protocol requires additional training for team members on rescue procedures and trauma prevention strategies. It requires the team to create a map of the rescue site and pre-designate locations for a support team. It emphasizes that advance details of the rescue should be kept confidential both from employers as well as the media.³⁶

MAIN FINDINGS:

- ▶ **Nonprofits play a vital role in identification of potential victims and verification of information.** Most participants from the labour departments (6/8) and law enforcement (9/10) report “often” receiving complaints of child forced labor from NGOs. The second most commonly cited source of tipoffs is the Childline.³⁷ The Labour Department was only third. One NGO respondent stated:

We get information from the field ... and also from some village committees, which we say as community safety net. This group works as a vigilance group in the village ... Girls are very useful as secret informers, because what is happening in the houses, they send information to us.

- ▶ **Local police, AHTUs and Labour Department officials rarely assist in confirming a tipoff.** All participants agreed that information is verified primarily by an anonymous tip, such as “community members explaining the nature of the work,” or by spot verification. Respondents from all groups agreed that local police, AHTUs and Labor Department officials do not assist in this process.

“Police also inform [employers] before about rescue operation, and they carry away children from there. Recently we got informed about 250 children but we could get only 20 children. Rest have been sent to some other place.”

36 Ministry of Labour and Employment, “Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour,” 23.

37 Childline India Foundation is a program supported by Ministry of Women and Child Development under the Integrated Child Protection Scheme. It is India’s first 24-hour, toll free, phone outreach service for children and currently operates in 346 cities in 33 States. See www.childlineindia.org.in/1098/b1dcitiesngos.htm

BEST PRACTICE

Best practice example: UK Operation Pentameter. The UK anti-trafficking police have an intelligence system that provides a ‘rich picture’ of the human trafficking situation, including surveillance, telephone and banking data of suspects; organized crime group mapping; images of suspects and suspected victims at immigration and other check-points; and a community-based sociocultural context of suspected populations at risk. These streams of data are analyzed by police teams before raids. Data contributed from NGOs at source, transit, and destination, is also used alongside the police data.

Source: UNAIP, *Raids, Rescues, Resolution Removing Victims From Sex And Labor Exploitation*, 3-4.

➤ **Information on an impending raid is sometimes leaked to employers.**

Confirming the results of other studies,³⁸ participants indicated that poor organization by the raid team or direct action by the police can alert employers to a rescue operation:

Police also inform [employers] before about rescue operation, and they carry away children from there. Recently we got informed about 250 children but we could get only 20 children. Rest have been sent to some other place. (NGO)

During the preparatory phase, the confidentiality of the child/rescue is a major concern. (NGO)

➤ **There are no separate guidelines for intercepting children before they reach the site of exploitation.** Study participants indicated a need for protocols that specifically address intercepting children during the process of trafficking (e.g. on a train or at the bus station, before they reach the site of exploitation), as distinct from those created for raiding the offending employer’s premises to rescue children already engaged in exploitation (e.g. at a garment sweatshop, or a *bidi* factory). As one NGO reported: “In cases of trafficking where there are possibilities of children being transported through train, then in that situation the local police, GRP (Government railway police) and RPF (Railway Protection Force) are contacted.”

UNIAP writes that “the success of raid/rescue operations can be significantly improved through proper pre-raid and post-raid preparation.”³⁹ Monitoring by NGOs and community watchdogs should be systematically incorporated into the police’s intelligence gathering processes.⁴⁰ In response to potential corruption within the police, raids should take place as quickly as possible after a tip-off to ensure that employers are not alerted.⁴¹ According to UNIAP, planning “should rely heavily on detailed operation manuals and plans outlining the exact role and responsibility of each individual and team, and strong coordination at the outset between police teams, prosecutors, interpreters, and victim service providers.”⁴² One report notes that language barriers are often an issue in rescue operations where children have been trafficked across states. Therefore, the team should include a representative with appropriate linguistic skills to communicate with the children.⁴³

38 Bhatt, *Not Made By Children Project*, 27.

39 UNAIP, *Raids, Rescues, Resolution Removing Victims From Sex And Labor Exploitation*, 3.

40 D. Rajasekhar, V. Gayathri Devi, A. Kumar, *Institutional Design for Tackling Child Labour Problem: A Study of the State Child Labour Project in Karnataka* (Concept, New Delhi, 2011), 38.

41 Equitable Tourism Options (EQUATIONS) & Association for Promoting Social Interaction (APSA), “Rescuing Child Labourers: An Analysis of the Operation Undertaken to Rescue Children Trafficked to Labour in the Jewellery Units in Karnataka,” (2004), 62.

42 UNAIP, *Raids, Rescues, Resolution Removing Victims From Sex And Labor Exploitation*, 5.

43 UNODC, *Standard Operating Procedures (SOP) on Investigation of Crimes of Trafficking for Forced Labour* (New Delhi: UNODC, 2008), 16.



Immediately following rescue, this young boy has his first counseling session with a nonprofit worker.

THE “RESCUE” PROCESS ITSELF

The Protocol recommends several measures to ensure that rescue operations are executed in “an effective, child friendly manner ... [that is] less traumatic for the child.”⁴⁴ It states that children should be immediately separated from the employer and all communication between them prevented. Additionally, any evidence for use in criminal procedures, including evidence of the child’s age, should be collected and recorded as quickly as possible, so that it can be incorporated into the First Information Report (FIR), the written document prepared by the police that begins criminal proceedings. The Juvenile Justice Act (2000) prohibits media publication of any identifying details or images of children during raids.⁴⁵ It makes an exception, however, if “for reasons to be recorded in writing ... such disclosure is in the interest of the juvenile or the child.”⁴⁶

MAIN FINDINGS:

- **Rescue teams do not have a consistent makeup.** Respondents agreed that in practice a representative of the Labour Department leads rescue teams and that an NGO worker is always present. Special juvenile police officers, doctors, local government officials, were reported to take part only sporadically. Only one of 18 NGO respondents stated that a police officer is always present during a raid.

Only one of 18 NGO respondents stated that a police officer is always present during a raid.

⁴⁴ Ministry of Labour and Employment, “Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour,” 25.

⁴⁵ *Juvenile Justice (Care and Protection of Children) Act*, 2000, accessed May 15, 2015, http://www.law.yale.edu/rcw/rcw/jurisdictions/assc/india/india_juv_just.pdf.

⁴⁶ *Ibid.*, p.8.

- **Rescue teams are sometimes not large enough.** Over half the respondents stated that seven or eight individuals make up a rescue team. However, one NGO respondent stated that these numbers are often not large enough for the task: “Here so many children are rescued but the team is not as big as numbers of children this is a big problem we face during rescue process. Sometimes we don’t get proper information about numbers of children.”
- **Restrictions on media coverage of rescue operations are inadequate, so child confidentiality is regularly breached.** Many participants indicated that rescue team members directly solicit media involvement and that necessary precautions to protect the children’s identities are not made. Others pointed to the potential ways that the media could be more positively involved in raids.

“The main challenge is lacking of conversation between different agencies like labour, police, social welfare and NGOs”

In case of a girl it is always insured to keep the information confidential but in case of boys it is followed sometimes. (NGO)

We do inform [the media] so that ... the public could understand that this type of activity is crime and punishable offence. (Government Official)

Sometimes we share [information with the media] in case of mass rescue where several children are supposed to be rescued. (Labour Department Official)

I think the role of media should publicize more and more the situations in which children work. So that anybody who is taking work from them, should be brought under tough action ... [Children] work 12 to 14 hours in a position like sitting under the table ... Today what happens [is] that the employer becomes sideline and focus comes on the child. (Government official)

- **The greatest barriers to planning and executing a rescue are lack of resources and poor coordination.** Participants indicated that rescue operations are hampered by a lack of advance planning and clear operating guidelines:

Enforcement agencies are overloaded with work ... there is not a priority to intervene immediately. (Law Enforcement)

The main challenge is lacking of conversation between different agencies like labor, police, social welfare and NGOs. And because of this lacking, the child suffers ... Recently I have seen that social welfare department has started sending letters or information through emails. But despite getting mails from them, we don’t have access to them through email. I think if we use latest technology for our communication, conversation process will be very much easy for all. (NGO)



UNIAP writes that the three objectives of rescue operations are to arrest those suspected of committing crimes related to human trafficking; to seize evidence of the crimes; and to rescue victims of trafficking and exploitation. Rescue operations can induce significant fear and anxiety in victims, so “victims should be immediately removed from crime scene and screened outside of the harm environment to reduce fear, anxiety, confusion and exposure to intimidation by criminals.”⁴⁷

Standard operating guidelines developed by the UNODC in 2008 for the investigation of crimes of trafficking for forced labor, emphasize that there should be designated members of the raid team whose role is to provide specialized care, explain what is happening and do everything possible to reduce anxiety and stress.⁴⁸ Best practices literature also recommends that raids ideally be carried out in the early morning (rather than during the night or in the middle of the day) to minimize the risk of a public spectacle, and the trauma to rescued children by ensuring that they are not woken up from their sleep by the rescue operation.⁴⁹

47 UNIAP, *Raids, Rescues, Resolution Removing Victims From Sex And Labor Exploitation*, 6.

48 UNODC, *Standard Operating Procedures (SOP) on Investigation of Crimes of Trafficking for Forced Labour* (New Delhi: UNODC, 2008), 16-17.

49 EQUATIONS, “Rescuing Child Labourers,” 62.

IMMEDIATE POST-RESCUE CARE

The Protocol states that “after the rescue operation is carried out, the Child Welfare Committee ... is empowered to take all actions and decisions with regard to the child.”⁵⁰ It states that children should be taken to “the drop-in centers or the temporary shelter homes under the control of Social Welfare Department” until arrangements for more permanent accommodation are made. The Department of Labour is responsible for the provision of adequate “food, clothing and security ... in the shelter homes in coordination with the Department of Social Welfare/ Women & Child Welfare or the NGOs as the case may be.”⁵¹ These guidelines also require that children receive a medical examination within 24 hours of rescue: “Wherever considered appropriate, the medical officer must keep the child for further observation and also arrange for counseling.”⁵²

MAIN FINDINGS:

- **Rescued children are generally taken to a government shelter, but in some circumstances are taken to the police station.** Immediately following rescue, children are most often taken to a shelter or NGO office. Representatives of the Labour Department, Law Enforcement, and Government denied that children are ever transferred to a police station. However, several NGO participants maintained that this does happen, and that “behavior of the police officials in most of the case is not child friendly:”

If [the] number [of rescued children is] more like 10 approx. Then they are not taken to the police station but if numbers are like one or two then there they are taken to police station ... for medical examination. (NGO)

⁵⁰ Ministry of Labour and Employment, “Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour,” 28.

⁵¹ Ibid, 31.

⁵² Ibid, 29.

BEST PRACTICE

Scandinavian child house model. The child house model is a one-stop victim support center that offers child victims and witnesses multiple services at a single, child-friendly location. Here, children are interviewed for the purpose of prosecution, and receive therapy, medical examinations and other treatment. First developed in Iceland, this model has been adopted throughout Scandinavia and integrated in the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.

Source: UN Human Rights Council, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Maud de Boer-Buquicchio, July 31, 2015, A/70/222, accessed at http://www.un.org/en/ga/search/view_doc.asp?symbol=A/70/222, 14.

When child is brought in the police station he is kept in custody and when we ask them why ... they say that he could be ran away. We told them running away it is not a crime but they keep child with themselves. (NGO)

- **NGOs and Labour Department officials generally take care of transport, food and general care needs of children immediately post-rescue.** The AHTUs are not reported to be responsible for any post-rescue care. Once a child is transferred to a shelter home, the shelter home superintendent is responsible for his/her care.
- **Language barriers present a significant challenge to immediate post-rescue care.** Nearly all participants (45/49) stated that the unavailability of an interpreter to understand a child's statement impedes the care and transfer plan of children after rescue. This striking failure has wide implications for the effectiveness of service delivery and criminal prosecution.

Best practices literature emphasizes that in the immediate aftermath of a raid, operations should focus on ensuring the child's physical, emotional and mental wellbeing.⁵³ There is however little consensus on the best location to transfer children once they have been removed from the raid unit, aside from it being considered safe. In a report assessing raid operations carried out by the nonprofit Bachpan Bachao Andolan (BBA), which conducted 251 raids between the years 2011-2013,⁵⁴ Bhatt recommends that children be taken "to a pre-determined safe place (protected by the police) where medical and counselling services are provided and the children are given food and water."⁵⁵ Other papers simply specify that children should be taken to "transit homes,"⁵⁶ or "shelter facilities."⁵⁷ There is no available evidence on the effect of housing children in police stations immediately after rescue.

53 Committed Action for Relief and Education (CARE) and Child Rights and You (CRI), "Developing a New Perspective on Child Labour: Exploring the Aftermath of Mumbai Raids Conducted from 2008 Onwards" (June 2014), 70-74.

54 Bhatt, *Not Made By Children Project*, 33.

55 *Ibid.*, 4.

56 EQUATIONS, "Rescuing Child Labourers," 68.

57 Subhadra Banda, Varshini Murali & Vidya Narayanaswamy, "Raid and Rescue: Will that be All?" *International Conference on Child Labour and Child Exploitation* (2008), 5.

PRESENTATION BEFORE THE CWC AND CRIMINAL INVESTIGATIONS

The Protocol states that Labour Department officials have responsibility for filing a First Information Report, the necessary first step for the investigation and potential prosecution of a crime.⁵⁸ After rescue, “the rescue team shall promptly collect all forms of evidence that shall be used in the legal proceedings”⁵⁹ including documents of employment, attendance registers, photographs of the workplace and the statement of the child. The Labour Department is also responsible for obtaining compensation arrears on behalf of the rescued child.

The penalties for employing children in violation of the Child Labour Act are imprisonment for 3 months to 1 year and/or fines ranging from \$160 to \$320, sums that many consider “insufficient to deter employers from employing children in the worst forms of child labor.”⁶⁰ Official figures for 2008-2012 show that, of the approximately 450,000 reported cases of children trafficked for labor, prosecutions were launched in just 25,000 of those cases and 3,394 employers were convicted.⁶¹

The child must also be presented before the child welfare committees (CWCs) and give a statement for determining reintegration needs. The Protocol does not stipulate whether one statement suffices for this purpose and the criminal procedure. The Labour Department is responsible for coordinating and liaising with the CWC in order to facilitate “necessary action for best interest of the child.” The CWC serves as “guardian of the rescued child ... empowered to plan the rehabilitation plan.”

58 Ministry of Labour and Employment, “Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour,” 21.

59 Ibid, 29.

60 United States Department of Labor, “India 2014 Findings on the Worst Forms of Child Labor.”

61 Simon Denyer, “India slowly confronts epidemic of missing children,” *The Washington Post*, September 22, 2012, https://www.washingtonpost.com/world/asia_pacific/india-slowly-confronts-epidemic-of-missing-children/2012/09/22/395d51b0-fd95-11e1-b153-218509a954e1_story.html

MAIN FINDINGS:

- **Children are consistently presented before the CWC and receive a medical examination.** 47 of 49 participants stated that this step is always taken in order to coordinate return of the child.
- **Children are compelled to give multiple statements.** Rescued children are often not asked to make just one statement regarding their trafficking experience; instead they are compelled to recount their story for a “counseling report,” used for creating a reintegration plan, and also for the criminal case. One Government Official commented that: “Every agency has its own statement recording process. They take statements separately from the child. In my view this process is not child friendly. All the authorities should accept [a] single child statement ... Also, it should be possible for the statement recording process to [be] delayed, so that children could be normal. On many times, children could not be able to tell about even their own names.”
- **The counseling report is sometimes given to the media.** Worryingly, eight out of eighteen NGO respondents said that the report is shared with the media. One NGO participant also commented that “sometimes, the children are forcibly asked to share information and they get scared.”
- **First Information Reports are not always filed and there is confusion about whose responsibility this is.** Twelve of eighteen NGO respondents and nine of ten law enforcement respondents stated that it is the Labour Department’s responsibility to file the FIR: only one of eight Labour Department officials thought it was their duty to do so. The majority of participants stated that NGOs end up filing the FIR. Only three out of ten law enforcement officials stated that an FIR is always filed.

Most of the time FIR is not lodged. That has been seen only when they are pressurized. And that is the problem. Although the [representative of the Labour Department] is appointed, he is inactive. (NGO)

If the case is complicated, [the child] is taken to police station but as per rule, child should not be taken to police station. According to the Supreme Court, the police has to go to child’s location for lodging the FIR, but that doesn’t happen. Practically you can’t claim that police should go to child’s place. Practice and written things are two different things. (NGO)

- **The recorded statement of the child is sometimes not considered sufficient for evidence in court.** One government official noted:

Suppose we lodged FIR here and case started here and children went to their home. When they will come for evidence? Will they come or not? Or they have been re-trafficked? ... Police and labor department understand that they don’t need children but court wants them here... court want evidence, and that will be given only by child.

“Every agency has its own statement recording process. They take statements separately from the child. In my view this process is not child friendly.”

- **Criminal prosecution or civil action against offending employers is rarely pursued, ensuring impunity for employers of child laborers.** All but two study participants stated that employers are “rarely” or “never” arrested. Respondents stated it was even less likely that an employer be convicted of a crime. This is due to a complex combination of factors, including failures in evidence-gathering, corruption and bureaucratic hurdles. Other reports confirm that in cases where child labor prosecutions are launched, resolution is unduly delayed because the judicial system is backlogged and overburdened.⁶² One government official stated:

From court culprits always get bail. In the last 14 years, no one employer or mediator has been sent to jail. And it is shameful for the administration. This is the fault of [the] system. The law is efficiently strong. But it [is] not implemented properly ... And unless these culprits are prosecuted, in my view, we [will] not [be] successful and child labor cannot be abolished.

Other respondents made creative suggestions to address the impunity surrounding these crimes by increasing the loss to employers:

We often say that all materials that are recovered [in a raid] should be confiscated. That will be very much costly to [the employer]. Child labor is brought for one reason: cheap labor. If we capture their product like saris ... this damage will be a heavy loss to [the employer]. Then he will be bound to employ mature labor. (NGO)

“From court culprits always get bail. In the last 14 years, no one employer or mediator has been sent to jail. And it is shameful for the administration.”

62 United States Department of State. “India: Trafficking in Persons Report- 2012,” June 19, 2013, accessed November 10, 2015, <http://www.state.gov/documents/organization/210739.pdf>.

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Best practice example: Bachpan Bachao Andolan (BBA) prosecution strategy. In the years 2010-2013, the nonprofit BBA lodged 201 FIRs, supported police in the arrest of 341 employers and traffickers, and assisted with the closure of 173 workplaces employing children. BBA relies on persistent enforcement of existing legal codes to gain prosecutions: the Juvenile Justice Act of 2000, the Indian Penal Code, the Bonded Labour Act and the Child Labour Act. BBA’s integrated approach to restoring justice for former child laborers includes not only the prosecution of employers, but also initiatives for repatriation, including fines, recovery of back wages, restitution and retribution.

Source: Bachpan Bachao Andolan, “Prosecution,” accessed December 8, 2015, bba.org.in/?q=content/prosecution-o.



A young girl is coached in preparation for a court appearance to testify against her traffickers.

Effective prosecution of those involved in the trafficking of children for forced labor is an essential part of an effective strategy to combat this problem.⁶³ UNIAP writes that “the counter-trafficking community should balance a victim-centered approach with a criminal justice response ... criminal justice functions as a long-term and broader deterrent, within which traffickers must be prosecuted and brought to justice.”⁶⁴

Best practices literature emphasizes that the statement of rescued children should always be recorded only after proper trauma counseling is conducted,⁶⁵ and that victims should always be presented with comprehensive information about criminal proceedings and be afforded competent and free legal representation.⁶⁶ Information must be provided in a language that the child victim is able to understand.⁶⁷ The UNODC calls for “video conferencing facilities at district levels in order to ensure that trafficked victims don’t have to personally appear for testifying and cross examination.”⁶⁸

63 Bhatt, *Not Made By Children Project*, 53.

64 UNIAP, *Raids, Rescues, Resolution Removing Victims From Sex And Labor Exploitation*, 7

65 UNODC, *Standard Operating Procedures (SOP) on Investigation of Crimes of Trafficking for Forced Labour*, 18.

66 UNIAP, *Raids, Rescues, Resolution Removing Victims From Sex And Labor Exploitation*, 7.

67 Ibid.

68 This can be ensured through video conferencing in light of the Judgment of the Supreme Court in *State of Maharashtra Vs. Praful B Desai* (CDR)2003(4) SCC 601. See UNODC, *Standard Operating Procedures (SOP) on Investigation of Crimes of Trafficking for Forced Labour*, 18.

V. REINTEGRATION

WHAT IS REINTEGRATION?

Children who have been rescued from trafficking situations face a huge range of challenges in successfully reintegrating into society. While “reintegration” has no universally accepted definition, it should be understood as a long-term, holistic process. Surtees defines it as:

“A process of recovery and economic and social inclusion ... [which] includes settlement in a stable and safe environment, access to a reasonable standard of living, mental and physical wellbeing, and opportunities for personal, social and economic development, and access to social and emotional support.”⁶⁹

Meeting these diverse and specialized needs calls for a coordinated and sustained policy response, supported by adequate, long-term funding. Reintegration services should be grounded in the contextual realities of individual children trafficked for labor and informed by established best practice.

Existing reintegration strategy focuses primarily on the provision of “educational rehabilitation for the child and economic rehabilitation for the family.”⁷⁰ Yet this study demonstrates that these frameworks currently fail to protect children at risk and meet applicable human rights standards. They leave hundreds of “rescued” children exposed to the same structural vulnerabilities that led to their being originally trafficked, with the predictable outcome that many of them are re-trafficked.⁷¹

“Because people are not aware [of reintegration plans], they don’t have sufficient knowledge about this. The matter passes through table-to-table and somewhere it gets dumped down.”

69 Rebecca Surtees, *Monitoring Anti-Trafficking Re/integration Programs: A Manual* (Washington: Nexus Institute and Brussels, 2010), 24.

70 Ministry of Labour and Employment, “Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour,” 35.

71 See, CARE and CRI, “Developing a New Perspective on Child Labour: Exploring the Aftermath of Mumbai Raids Conducted from 2008 Onwards” (June 2014). Additionally, an informal report made to Harvard FXB by the NGO Action Aid during a field visit to Gaya Railway Station in Bihar in Jan 2014, stated that in one case over a third of rescued children had been re-trafficked within 3 months from their return date.

MAIN FINDINGS:

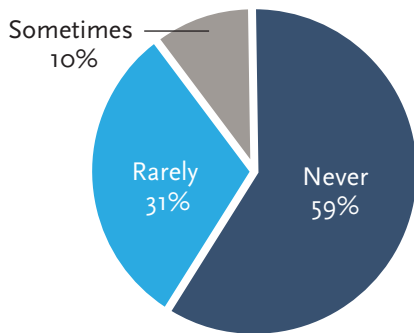
- **Relevant stakeholders are unaware of and/or do not implement existing reintegration policy.** Participants stated that both short- and long-term reintegration plans for rescued children are “never prepared” or “never implemented.” Over 80% of all respondents added additional comments to the survey to emphasize that, “No steps are taken to ensure child is not trafficked again.”

Because people are not aware [of reintegration plans], they don't have sufficient knowledge about this. The matter passes through table-to-table and somewhere it gets dumped down. (CWC)

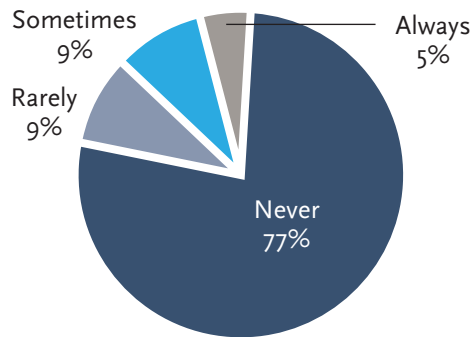
- **Existing frameworks mistakenly treat reintegration as a fixed, short-term process.** 96% of participants stated that individual cases are closed within four months, with no subsequent follow-up or monitoring of the consequences of return. Survey results showed that reintegration services are provided to rescued children in an ad hoc, disjointed manner, not guided by any overarching holistic plan for the child’s recovery.

Over 80% of all respondents added additional comments to the survey to emphasize that, “No steps are taken to ensure child is not trafficked again.”

How often is a short-term care plan available? (All participants)



How often is a long-term care plan available? (All participants)



- **Reintegration policies do not engage with broader structural drivers of child trafficking for labor.** Several participants noted that reintegration efforts ought to be combined with preventative strategies such as education and poverty alleviation.

There should be counseling of parents. It is very important. They should be aware that education of child is more helpful for their child, before sending him for work ... We see some of the parents are very much deprived. (NGO)

- **There is significant potential for increased engagement of community stakeholders in reintegration.**

Local institutions like mukhia, ward councilor, aangandvadi, and aasha. We should make contact with all these and tell them about children who had gone from this particular area and they have been reintegrated with their families. Now it's their responsibility to integrate all of them with schools and mainstream. (CWC)

A committee should be formed at village level which should make list of children who are going out of the village and through this government could know that how many children are migrating. (NGO)

ACCOMMODATION: FAMILY RETURN OR ALTERNATIVE CARE

Accommodation arrangements for rescued children are determined by the Child Welfare Committees (CWC). First, the Juvenile Justice Act requires the CWC to conduct a home verification report to decide whether or not a child should be sent back home to his or her parents. If the parents are “found to be fit, they must receive counselling and be made to sign a bond in which they agree that they will not send the child back to work, but to school.”⁷² Otherwise, the CWC can recommend family based alternative care, or residential hostels.⁷³

The government provides access to residential schools through its National Child Labour Project (NCLP) and Sarva Shiksha Abhiyan (SSA) programs. It also outsources some of the responsibility for residential hostels to the nonprofit sector, which is involved “wherever possible.”⁷⁴

⁷² *Juvenile Justice (Care and Protection of Children) Act*, 2000, accessed May 15, 2015, http://www.law.yale.edu/rcw/rcw/jurisdictions/assc/india/india_juv_just.pdf.

⁷³ Ibid.

⁷⁴ Ministry of Labour and Employment Task Force, “Task Force on Child Labour Report,” Government of India, 2010, accessed June 15, 2015, [http://labor.gov.in/upload/uploadfiles/files/Divisions/childlabor/Amended%20MoLE%20Task%20Force%20Draft%20report%20\(3\)20912\(1\).pdf](http://labor.gov.in/upload/uploadfiles/files/Divisions/childlabor/Amended%20MoLE%20Task%20Force%20Draft%20report%20(3)20912(1).pdf).

MAIN FINDINGS:

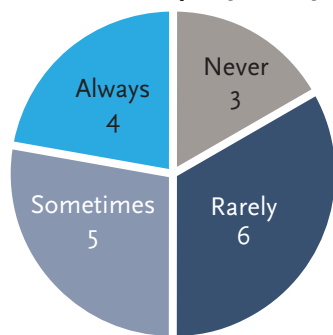
- **Home verification happens inconsistently; and thorough home assessments do not happen.** Survey results showed hugely divergent responses as to whether a home verification report is conducted. Respondents stated that thorough assessments of the potential risks and suitability of a family environment “do not physically happen.” This means that, currently, vulnerable children are being returned to environments that may have originally contributed to their being trafficked and that continue to put them at risk.

Efforts are made only to trace the [child's] home address. (Labour Department)

There is no process available anywhere. Only process follows, is to check the address proof, or written letter from village head, or Adhaar card. But actual verification of child home doesn't happen. (NGO)

“We don't have [the] human resources. We don't have proper coordination between different layers of our social structure like district, village or tehsil levels. Those who are living in the districts, have no way to check and verify.”

How often is a home verification report conducted? (All participants)



Labour Department (18 respondents)

- **There are huge logistical barriers to thorough home assessments.** Approximately four-fifths of child workers in India are from families in rural areas,⁷⁵ and trafficked children sometimes come from families that are themselves migratory.

We don't have [the] human resources. We don't have proper coordination between different layers of our social structure like district, village or tehsil levels. Those who are living in the districts, have no way to check and verify the child's address, so this is the huge gap we face. (CWC)

It has been a challenge to identify families those who are staying in the slums or rural areas ... As there are no house number and they are also mobile in nature and we face challenges in identification. However, we seek support from the local police to help us in the identification of children. (Labour Department)

⁷⁵ United States Department of Labor “2013 Findings on the Worst Forms of Child Labor: India,” Bureau of International Labor Affairs (2013), 1.

- **Children’s wishes are not incorporated into accommodation decisions.** Participants unanimously stated that children are always returned to their families except in cases where a home address cannot be identified. This indicates that children who are able to identify a “home” address, but do not wish to return there, are consistently overruled.
- **There is no support provided to families or follow-up care.** One NGO participant commented that children “are reintegrated with their families but there is no follow up – nobody takes care of them.”
- **Alternative accommodation options are limited, underfunded and not subject to adequate monitoring and evaluation.** While there are some excellent NGOs that run shelters for vulnerable children, such as the MV Foundation, the quality of services offered from one shelter to the next is highly variable. Studies by the nonprofit Aangan⁷⁶ and the U.S. State Department⁷⁷ have demonstrated that shelters run by nonprofits often put rescued children at risk of physical and emotional abuse. Reports of assault, neglect and re-trafficking are not uncommon.⁷⁸ These studies find similar risks in government-provided residential shelters, while foster housing is “severely under-utilized as a method of providing family care.”⁷⁹

“[Children] are reintegrated with their families but there is no follow up – nobody takes care of them.”

76 Aangan, “Changing Spaces: Understanding the Effectiveness of Children’s Institutions,” (2006) accessed June 14, 2015, http://aanganindia.org/pdf/Aangan_ChangingSpaces.pdf.

77 United States Department of State, “2013 Trafficking in Persons Report - India,” (19 June 2013) accessed June 15, 2015, <http://www.refworld.org/docid/51c2f3b7c.html>.

78 Aangan, “Changing Spaces;” United States Department of State, “2013 Trafficking in Persons Report – India;” Ammu Kannampilly, “‘Culture of abuse’ at India’s children’s care homes,” *The National*, July 15, 2012, www.thenational.ae/news/world/south-asia/culture-of-abuse-at-indias-childrens-care-homes.

79 Jayna Kothari & Rajgopal Saikumar, “Foster Care in India: Policy Brief,” *Centre for Law and Policy Research* (January 2014), ix, accessed June 15, 2015, <http://fostercareindia.org/wp-content/uploads/2014/10/Foster-Care-India-Brief1.pdf>.

BEST PRACTICE

Best practice example: Aangan monitoring and evaluation tool. Between 2007-2012, the Mumbai-based nonprofit Aangan has monitored over a thousand government children’s institutions, rescue homes and shelters across 19 of India’s 28 states. Aangan measures each institution against a 100-point standards of care checklist developed in partnership with UNICEF India. It also carries out staff training for key government personnel on empathy in child engagement; staff wellbeing; and improvements in institutional care.

Source: Aangan India, “Response and Rehabilitation,” accessed December 9, 2015, aanganindia.org/response-and-rehabilitation/.

Existing best practices literature emphasizes that accommodation decisions for rescued children should be made on an individual basis after assessing the specific needs and experiences of each child.⁸⁰

Reunification with family is generally considered to be the most desirable outcome. Yet this is contingent upon two factors. First, a rigorous assessment of the family environment is essential. Return to a family that has been complicit in trafficking, or that does not have the capacity to provide a basic level of support, places minors in an acutely vulnerable position with serious risks of re-trafficking.⁸¹ Second, access to family counseling and support are critical. They include financial and skill training, and information on the challenges facing rescued children.⁸²

If it is determined that a child does indeed require alternative care, it must be provided in a setting that meets general minimum standards in terms of conditions and staffing, regime, financing, and protection.⁸³ Children should have access to education and training programs, long-term medical care, and psychological support.⁸⁴ Vitality, institutional care needs to be the focus of more careful and monitored attention than it has to date.

INTER-STATE TRANSFER

The Protocol on Trafficked and Migrant Child Labour does not comprehensively address procedures for the inter-state transfer of trafficked children after rescue. It broadly allocates responsibility to the Labour Department for making arrangements “to send the child to his family under escort” and also stipulates that it falls to “the State of the child’s origin to pay for his transportation back to the child’s family.”⁸⁵ It does not specify which department in the origin State is responsible for these costs or designate any particular individual to serve as the escort. It confusingly calls for the involvement of several different agencies: “If the child belongs to some other State, the child shall be restored to the family by coordinating with State Resident Commissioners, local administration of the district as well as the CWC of the destination district.”⁸⁶

Children should have access to education and training programs, long-term medical care, and psychological support.

80 Claire Cody, “Working Paper. What do we know about... integrating into a new community or setting: one option for children affected by sexual exploitation and related trafficking?” *The Child Recovery and Reintegration Network* (September 2013), 3.

81 See CARE and CRI, “Developing a New Perspective on Child Labour: Exploring the Aftermath of Mumbai Raids Conducted from 2008 Onwards” (June 2014); Rebecca Surtees, “Child Trafficking in Southeastern Europe- Different Forms of Trafficking and Alternative Interventions,” *Tulane Journal of International and Comparative Law* (14: 455, 2005-2006), 486.

82 Rebecca Surtees, *Re/integration of trafficked persons. Working with trafficked children and youth* (NEXUS Institute, Washington DC: 2014), 40.

83 Rebecca Surtees, *Re/integration of trafficked persons. Working with trafficked children and youth*, 45.

84 *Ibid*, 12.

85 Ministry of Labour and Employment, “Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour,” 34.

86 *Ibid*, 30-31.

MAIN FINDINGS:

- **There is no clearly defined responsible party that makes the arrangements to transfer the child back to his/her home state.** NGO participants stated that the CWC and Social Welfare Department in the destination state make these arrangements, while the Labour Department respondents claimed responsibility for this duty. As one NGO respondent reported: “There is no provision to track the mechanism of inter state migration i.e the migration needs to be safe and there has to be a system in place which will check whether it is safe or not.”
- **There is no designated party for carrying out inter-state transfer.** When asked who escorts the child from the destination state back to their home state, participants listed: NGOs, Labour Department officials, Social Welfare representatives, local police from the destination state, Childline representatives, and staff from the destination state shelter home. Significantly, participants did not list the Anti Human Trafficking Units as key stakeholders in inter-state transfer.

The confusion surrounding the above two responsibilities is cause for concern. It indicates that essential information on the child’s case history and their future reintegration needs is not consistently delivered to home state officials and the families of returning children.

BEST PRACTICE

Best practice example: Mamidipudi Venkatarangaiya Foundation (MVF) bridge schools in Andhra Pradesh. MVF runs bridge schools for former child laborers in close consultation with local schools and actively mobilizes community members and village councils through public events to engage in the issue of child labor. It also plays a significant role in providing technical support to state-led educational programs: the Andhra Pradesh government eventually replicated MVF’s model in its own “Back to School Project.”

Source: Neera Burra, *Born Unfree: Child Labour, Education and the State in India* (OUP India, 2007): Lxii; IPECL, “Education as an Intervention Strategy to Eliminate and Prevent Child Labour”: 34.

EDUCATIONAL REINTEGRATION

Education programs are central to the government's reintegration strategy. The Right to Education Act of 2009 provides that all children aged 6 to 14 years must receive free and compulsory education. National Child Labour Project (NCLP) Schools provide rescued children with non-formal educational services to help them catch up on missed years before re-joining the formal system. Pupils are taught a highly condensed syllabus for anywhere between six months and three years before being mainstreamed into Grade 6 of a formal institution or returned to some form of self-employment. The teachers that provide instruction in both NCLP and SSA (Sarva Shiksha Abhiyan) schools receive 20 days of skills training prior to beginning work,⁸⁷ and are paid between Rs. 3000 and Rs. 5000 per month.⁸⁸

The government's programs for educational reintegration also serve as the principle vehicle for providing other important reintegration services. NCLPs are required to provide vocational training, supplementary nutrition, a monthly stipend of Rs. 150 to the child's family, and regular health check ups.⁸⁹ However, the formal arrangements to facilitate these various services are conducted on a largely ad hoc basis.

MAIN FINDINGS:

- **Rescued children are not consistently enrolled in educational rehabilitation programs.** Survey participants from the CWC in the origin state unanimously stated that children are “never” reintegrated through the National Policy on Child Labour or the Indus Child Labour Project; two thirds stated children are “never” reintegrated through the NCLP or SSA programs. Participants listed the biggest barriers to enrollment as the lack of available participating schools in the district, the failure of schools to deliver the promised daily stipend, and the child's refusal to attend school.

The challenges [to educational reintegration] include misbehavior of the child; since child comes from very lower strata, mostly from dalit and minorities communities; and the children of Dalit and Maha Dalits don't have sufficient confidence to connect with other communities ... But the main reason for this is poverty. Unless it is addressed, children would escape from their homes. (CWC)

87 Ministry of Human Resource Development, “Sarva Shiksha Abhiyan: Intervention for Out-of-School Children,” Government of India, accessed June 22, 2015, <http://www.ssa.tn.nic.in/schemes-e.htm>.

88 Ministry of Labour and Employment, “Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour,” 20.

89 Anoop K. Satpathy, Helen R. Sekar and Anup K. Karan, *Rehabilitation of Child Labour in India: Lessons Learnt from the Evaluation of NCLPs* (Noida: V.V. Giri National Labour Institute, 2010), 5.

- **There is no clear responsibility for the child’s educational enrollment.** Participants indicated that this role should belong to the CWC or to NGOs. However, responses also reflected the importance of demand for education from the family.

Only parents of the child have role in [school enrollment]. We can only convince child’s parents about admission. (CWC)

Nobody helps a child to get enrolled in a school after the rescue. (NGO)

- **Key stakeholders are not consistently trained on the Right to Education Act 2009.** Three out of eight Labour Department officials interviewed stated that they received training on this particular law; one out of ten participants from law enforcement and six out of eight government officials had received such training.
- **Bridge schools are not synchronized with formal schools.** There is extremely poor coordination and communication between formal schools and the NCLP and SSA bridge schools. This creates logistical barriers to the transfer of children into the formal system; the harmonization of syllabi to ensure that children do not miss important material; and the care necessary to ensure individual children’s access to specialized education and health services. These deficiencies are caused by insufficient training and funding, and exacerbated by the fact that SSA and NCLP programs are run by the Ministry of Labour and Employment, while the Ministry of Education organizes formal schooling.⁹⁰
- **Bridge schools suffer from lack of human and financial resources:** CWC officials stated that schools “don’t provide a midday meal, [have] poor quality of education, insufficient infrastructure, [and] lack coordination between child and teacher.” Other reports show that the NCLP is notoriously underfunded;⁹¹ it operates in only 266 of India’s 676 districts;⁹² and its teaching staff are poorly remunerated and often under-qualified.⁹³

“[Schools] don’t provide a midday meal, [have] poor quality of education, insufficient infrastructure, [and] lack coordination between child and teacher.”

90 Notably, the one district where the NCLP is run by the Department of Education is Andhra Pradesh, where existing best practices have been identified and significant gains have been made in eliminating child labor. See Neera Burra, *Born Unfree: Child Labour, Education and the State in India* (Delhi: OUP India, 2007): Lvii.

91 Mishra Yamini et. al, *Human Rights and Budgets in India* (New Delhi: Human Rights Law Network, 2009), 365.

92 Ministry of Labour and Employment, *Annual Report of the Ministry of Labour and Employment 2012-2013* (New Delhi; 2013).

93 Bundipur Zutsi, *Seeking to Bridge the Divide: Linking Formal and Non-Formal Education in Uttar Pradesh, India* (Geneva: International Bureau of Education, 2004), 8.

All these [NCLP schools] are only for show-off, only on the papers, not in real. Nothing done in all these schemes ... One boy is given 5 rupees for lunch and in Neterhaat one child is given 100 rupees. What is all this? Is it justified? We have said this several times, if you really want to rehabilitate, you have to allocate funds according. (NGO)

- **Vocational training is provided in an ad hoc, inconsistent manner.** There are no formal guidelines for the integration of vocational skills training into reintegration schemes, with the result that many children do not benefit from these programs. There are no standard operating guidelines for when such training is appropriate or curriculum content. Thus, children are often enrolled in programs that are inappropriate for their age, poorly targeted to the existing job market, or detrimental to their formal education.

All best practices literature emphasizes that comprehensive and quality education is pivotal to reintegration efforts. It serves to eliminate and prevent child labor, create a skilled workforce and promote development based on the principles of social justice and human rights.⁹⁴ Yet children who have been exploited face multiple barriers to accessing these services, such as “lack of identity documents, in particular birth certificates, loss of educational records, financial and geographical barriers, gender discrimination, bullying or teasing, corporal punishment, feeling uncomfortable in the school environment or difficulties with concentration.”⁹⁵

Studies show that non-formal education can effectively facilitate the re-entry of children into the formal education system and provide them with remedial support.⁹⁶ Yet the success of these programs is largely conditional upon:

- Integration with formal education systems to coordinate logistics and ensure that children are transferred when appropriate.
- Synchronized curricula to ensure children cover all necessary information and are not left to fall behind.
- Follow-up after transfer to ensure that children’s emotional and psychological needs, as well as educational requirements, are attended to.⁹⁷
- Thorough teacher training on curricula and broader issues surrounding child trafficking for labor. Teachers have pedagogical, pastoral and logistical responsibility and are well placed to monitor children at risk of dropping out of school.⁹⁸

94 International Programme on the Elimination of Child Labour (IPECL), “Education as an Intervention Strategy to Eliminate and Prevent Child Labour,” International Labour Organization (Geneva: ILO, 2006), 5.

95 UN Human Rights Council, *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Maud de Boer-Buquicchio*, July 31, 2015, A/70/222, accessed at http://www.un.org/en/ga/search/view_doc.asp?symbol=A/70/222, 12.

96 Winrock International, “Best Practices in Preventing and Eliminating Child Labour through Education” (Arlington: Winrock International, 2008), 104.

97 IPECL, “Education as an Intervention Strategy to Eliminate and Prevent Child Labour,” 102.

98 Ibid 54.

With regards to vocational training, prominent scholars on child labor such as Myron Weiner and Neera Burra have long asserted that it is undesirable for young children as it strengthens the “tacit understanding that children of the poor must work for the survival of their families...[which] then becomes a self-fulfilling prophecy.”⁹⁹ Yet many organizations on the ground implement skills training for adolescent children as part of reintegration programs based on the logic that many will inevitably work to assist their families. Participation of older children in these programs can “not only help include former child workers in education and training but also prevent their exclusion from the labour market as adults.”¹⁰⁰ According to those who advocate skill training for older adolescents, these programs should meet several basic criteria, including:

- Age appropriate skills.
- A detailed assessment of what skills are needed and can be absorbed into the local labor market.
- Easy geographic accessibility for participants.
- Involvement of families to ensure children do not return to hazardous work.
- Engagement with employers to provide opportunities for apprenticeships and employment.¹⁰¹

ECONOMIC SUPPORT

Recognizing that child labor is rooted in and perpetuates poverty and structural inequality, Indian reintegration policy seeks to provide children with economic support. The Supreme Court determined in the case of *M C Mehta versus State of Tamil Nadu*¹⁰² that offending employers must deposit Rs. 20,000 per rescued child into a special welfare fund. It also directed that one adult family member of the rescued child must be provided with employment, and, failing that, that the State Government must make an additional contribution of Rs. 5000 to the welfare fund.¹⁰³ The Protocol states that the Labour Department must “take necessary action for obtaining compensation/claim/wage arrears on behalf of the rescued child.”¹⁰⁴

99 Myron Weiner, Neera Burra & Asha Bajpai, *Born Unfree: Child Labour, Education and the State in India* (Delhi: Oxford, 2007), iv.

100 IPECL, “Education as an Intervention Strategy to Eliminate and Prevent Child Labour,” 15.

101 IPECL, “Education as an Intervention Strategy to Eliminate and Prevent Child Labour”: 15. See also Surtees, “Re/integration of trafficked persons: supporting economic empowerment” (2012): 61-64; Stephanie Delaney, “Supporting Child (Re)integration,” *Terre des Hommes* (Tdh, Lausanne, 2012); ILO Regional Project on Combating Child Trafficking for Labour and Sexual Exploitation, “Child friendly standards and guidelines for the recovery and integration of trafficked children” (Bangkok: ILO): 44, 46.

102 *M C Mehta versus State of Tamil Nadu*, Supreme Court of India, 1996, accessed June 16, 2015, http://ncpcr.gov.in/show_img.php?fid=520.

103 Ministry of Labour & Employment, “Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour.”

104 Ibid.

The Indian Government also collaborates with nonprofits to encourage microcredit schemes, such as the Prevention and Assistance to Survivors of Trafficking program run by the International Labour Organization.¹⁰⁵

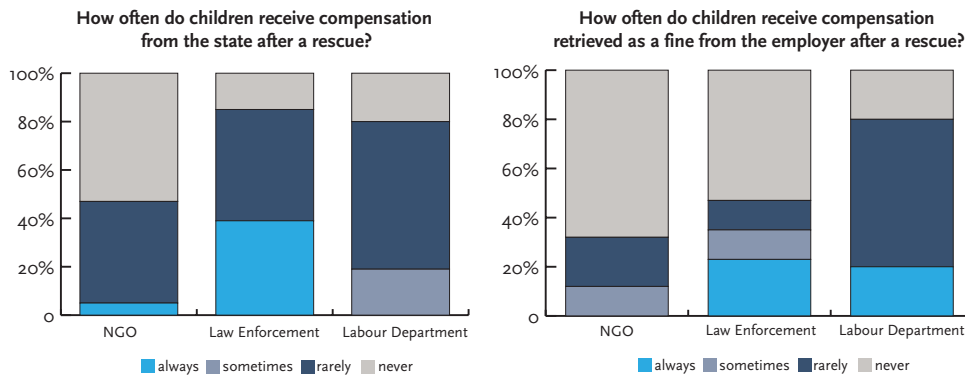
Deficiencies in economic reintegration programs are principally caused by technical and administrative failures, not a lack of resources.

MAIN FINDINGS:

- **Compensation from the former employer/state rarely reaches the intended beneficiary.** Study participants were almost uniformly aware that rescued children ought to receive Rs. 20,000 from their previous employer. Yet they acknowledged that, in practice, children rarely receive any compensation at all either from the state or from the employer.

[Children] rarely get financial help, it is given only when the number of children is like 3-4 but in group of children then there is no chance of financial help or compensation. It is believed that child's freedom from labor is itself a compensation. (NGO)

They don't give them cash. They sometimes buy some clothes and slippers ... then say that this is the rest amount of your rehabilitation package. (NGO)



- **Failure to deliver NCLP stipend contributes to low school attendance.** Participants stated that government's failure to deliver the pledged 150 Rs. stipend for children in NCLP schools is a key driver of poor attendance. Local media coverage and research by Human Rights Watch confirm that promised economic assistance rarely reaches its targets.¹⁰⁶

¹⁰⁵ See International Organisation for Migration, "Prevention and Assistance to Survivors of Trafficking," accessed June 15, 2015, <https://www.iom.int/cms/en/sites/iom/home/where-we-work/asia-and-the-pacific/india.default.html?displayTab=contact-us>.

¹⁰⁶ See, for example, Aparna Banerji, "NCLP teachers without salary for past 21 months," *The India Tribune*, March 28, 2015, <http://www.tribuneindia.com/news/jalandhar/nclp-teachers-without-salary-for-past-21-months/59857.html>. This article reports that in 2015 students in Jalandhar NCLP schools had not received the stipend in as much as three years. See also Human Rights Watch, *Small Change. Bonded Child Labor in India's Silk Industry* (January 2003) Vol.15, No. 2, accessed at, <http://www.hrw.org/reports/2003/india/>. This study found that 62 per cent of schools delivered the stipends after delays lasting months, causing many children to drop out of school.



Children in a meditation practice at a rehabilitative school for children exposed to trafficking and abuse.

- **These deficiencies in economic reintegration programs are principally caused by technical and administrative failures, not a lack of resources.** Policy frameworks do not provide clear, standardized guidelines on how cash transfers are meant to work: neither the Protocol nor the *MC Mehta* judgment details where the welfare fund for receipt of the money should be set-up, how inter-state coordination should be achieved, or what kind of access families will have to this money. Study participants listed the following as reasons why financial compensation does not reach the child and their family: incorrectly listed address for the employer; employer absconds; employer refuses to pay; or, the Labour Department fails to retrieve the fine. Respondents did not list a lack of resources as a principal reason why children are not compensated.

BEST PRACTICE

Honduras Family Allowances Program. This program was started in the early 1990s to distribute cash subsidies to families with children in early primary school as well as pregnant mothers, conditional on regular school attendance and health center visits. Cash transfers were found to have significantly greater impact on child labor when the conditions were rigorously enforced and when the program was complemented by supply-side interventions: investments in schools and health centers, and improved poverty targeting mechanisms. For all children in the study eligible to receive the education transfer, school enrollment increased by 12 percent and reduced child labor by 30 percent and work inside the home by 29 percent.

Source: Sebastian Galiani & Patrick J. McEwan, "The Heterogeneous Impact of Conditional Cash Transfers." *Journal of Public Economics* 103 (2013), 90.

Existing research shows that economic stability and sustainability are vital determinants of successful reintegration of children trafficked for labor.¹⁰⁷ There is growing consensus that cash transfer programs have strong potential to further this goal.¹⁰⁸ A 2014 World Bank review of available empirical evidence found that cash transfers can “lower children’s participation in labor...and cushion the effect of economic shocks that may lead households to use child labor as a coping strategy.”¹⁰⁹ Studies show, however, that the impact of cash transfers on child labor is heterogeneous.¹¹⁰ It is context-specific and depends partly on the integration of these programs with other investments in health, education facilities or after-school education.¹¹¹ Such schemes are unambiguously more impactful for families that come from lower baseline economic means.¹¹² This suggests that cash transfers primarily affect child labor through the mitigation of credit constraints,¹¹³ and therefore function most effectively when part of a radical and sustained poverty-alleviation strategy.

107 See Anette Brunovskis & Rebecca Surtees, “Coming Home: Challenges in family reintegration for trafficked women. Qualitative Social Work,” *Qualitative Social Work* July 2013 12: 454-472; Lacey Illene Ruben, *Economic Rehabilitation for Survivors of Trafficking in India* (Geneva: International Organization for Migration, 2006).

108 Rebecca Surtees, “Re/integration of trafficked persons: supporting economic empowerment,” *Trafficking Victims Re/integration Programme* (2012), 64.

109 Jacobus de Hoop and Furio Rosati, “Cash Transfers and Child Labor” World Bank Policy Research Working Paper No. 6826 (March 1, 2014), 23.

110 There is evidence that conditional transfers, if properly enforced, can be more effective than unconditional and that delayed schedules of payments can likewise positively impact child labor in some circumstances. Yet conditional transfers schemes have also been shown to disproportionately exclude the poor, on whom the burden of compliance is greatest. See Sarah Baird, Francisco Ferreira, Berk Özler, and Michael Woolcock. Relative Effectiveness of Conditional and Unconditional Cash Transfers for Schooling Outcomes in Developing Countries: A Systematic Review, *Campbell Systematic Reviews* (2013), 8; Felipe Barrera-Osorio, Leigh Marianne Bertrand, and Francisco Perez-Calle, “Conditional Cash Transfers in Education: Design Features, Peer and Sibling Effects. Evidence from a Randomized Experiment in Colombia,” World Bank Policy Research Working Paper 4580 (2008); Guy Standing, “From Cash Transfers to Basic Income: An Unfolding India Agenda,” *The Indian Journal of Labour Economics* (Vol. 57, No. 1, 2014); C., F. Devoto Alvarez and P. Winters, “Why Do the Poor Leave the Safety Net in Mexico? A Study of the Effects of Conditionality on Dropouts”, Department of Economics Working Paper, American University, Washington, DC (2006).

111 de Hoop and Rosati, “Cash Transfers and Child Labor,” 30.

112 Michael Kremer and Holla Alaka, “Pricing and Access: Lessons from Randomized Evaluations in Education and Health,” In *What Works in Development: Thinking Big and Thinking Small*, ed. Jessica Cohen, William Easterly (Washington, DC: The Brookings Institution, 2009): 91–129.

113 de Hoop and Rosati, “Cash Transfers and Child Labor,” 15.

HEALTH NEEDS

Health services are not comprehensively addressed as part of the government's reintegration plan for trafficked children. The Protocol states that a medical team should conduct a "detailed physical examination" of children immediately following their rescue and, "wherever appropriate, arrange for counselling."¹¹⁴ Yet after children have been returned to their family or alternate accommodation situation, the Protocol only makes the general direction that the Department of Health should provide "medical benefits...under the School Health Scheme" to children in NCLP schools."¹¹⁵ No specific directions are made for provision of specialist or long-term care, or for the care of children not in NCLP schools.

No specific directions are made for provision of specialist or long-term [health] care, or for the care of children not in NCLP schools.

MAIN FINDINGS:

- ▶ **The immediate health needs of rescued children are not satisfactorily addressed.** Although study participants stated that a counselor is supposed to accompany children immediately following rescue, no other concrete measures were mentioned that address the immediate physical, mental, and psychological needs of these vulnerable individuals.
- ▶ **Indian reintegration policy does not address the long-term health needs of rescued children or those of the families to which they return.** One government official stated that, "We are fulfilling only 40 % of health needs of the children. So it is very insufficient and inadequate." The other study results indicate that this is an overly optimistic estimate. Participants indicated that health services are rarely provided to children in bridge schools. They also stated that many children are never enrolled in these programs, and therefore receive no targeted services. No health services are provided to meet the psychological, emotional or physical health needs of the families to which children return.

¹¹⁴ Ministry of Labour & Employment, "Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labor," 29.

¹¹⁵ Ibid, 43.

BEST PRACTICE

Kasturba Gandhi Balika Vidyalya (KGBV) schools. KGBVs are special residential schools started in 2004 by the government under the Sarva Shiksha Abhiyaan (SSA) program, for older girls from socially disadvantaged communities who were never enrolled in or had to drop out of primary school. Girls in KGBV schools receive training to improve their mental and physical health, prevent early marriage and early pregnancy, and advocate for their educational and health rights. In particular, they are taught about menstruation, reproductive health, and gender-based violence. Schools require regular health check ups and record-keeping of a basic medical profile, including height and weight.

Source: CorStone, "Girls First: KGBV Schools, India," accessed December 9, 2015, corstone.org/girls-first-kgbv-schools-india/



A young girl studies in a permanent shelter home for trafficked youth.

Although reintegration programs rarely approach trafficking as a health issue, studies show that trafficked children often experience and witness extreme violence, suffer exploitative and harmful working conditions and are denied access to medical care or even basic medicines.¹¹⁶ These can lead to a variety of mental and physical health problems that, when left unaddressed or inadequately addressed, significantly impede reintegration success.¹¹⁷

A study by Zimmerman et al. of trafficking survivors in Cambodia, Thailand and Vietnam recommends that health care for trafficking victims individuals should be funded by the State and “prioritized through safe and supported referrals between agencies...to assure the continuity of necessary care.”¹¹⁸

116 Rebecca Surtees, *After Trafficking: Experiences and Challenges in the (Re)integration of Trafficked Persons in the Greater Mekong Sub-region* (Bangkok: UNIAP/NEXUS Institute, 2013): 25.

117 Cathy Zimmerman et al., “Health and human trafficking in the Greater Mekong Subregion. Findings from a survey of men women and children in Cambodia, Thailand and Viet Nam,” *International Organization for Migration and London School of Hygiene and Tropical Medicine* (2014): 5-6.

118 Ibid.

VI. OVERARCHING ISSUES WITH CURRENT LEGAL AND POLICY FRAMEWORKS

This study reveals that Indian policy and legal frameworks to combat child trafficking for labor currently fail to protect the rights of vulnerable children or to address the endemic causes of their abuse. Despite well-intentioned attempts at protection and intervention, several overarching factors contribute to systemic failures in service provision.

FAILURE TO CARRY OUT RESCUE OPERATIONS IN CONSISTENT AND RIGHTS PROTECTIVE MANNER

Clear and detailed standard operating protocols for rescue operations are lacking. As a result, there is a failure to allocate precise responsibility and leadership for the planning and execution of raids. Children are sometimes transferred following rescue to environments that are not child-friendly, such as police stations. There are no guidelines specifically tailored to rescue operations carried out before children reach the site of exploitation. These deficits contribute to unclear allocations of responsibility, confusion between pre arrival and post child labor setting rescues; the inappropriate use of police stations as a holding site for rescued children; privacy/protection deficits; inadequacies in shelter settings; and serious communication problems resulting from a failure to address language issues that arise during these operations.

FAILURE TO PROVIDE ADEQUATE REINTEGRATION SERVICES

Operations to rescue children from situations of exploitation are currently carried out in isolation from efforts to support their long-term recovery. Yet one cannot be effective without the other. Long- and short-term reintegration plans for rescued children, which integrate the different necessary services and ensure their provision, are not developed or implemented. Key stakeholders are unaware of existing reintegration policies and individual services are provided in an ad hoc, isolated manner. Rescue and return to a “family” situation is considered sufficient, but this does not address the many complex needs of children who have been trafficked for labor.

SHORTCOMINGS OF THE CHILD LABOUR APPROACH

According to the Protocol, the Department of Labour is the nodal department for coordinating the rescue and reintegration process. As a result official interventions affecting trafficked children are primarily considered a labor issue. Remedial measures focus on removing children from work and preventing their future return to sites of exploitation.

This approach does not emphasize the importance of child-friendly interventions. It ignores both the broader welfare needs of children who have undergone traumatic experiences and the factors that push them into exploitation in the first place. A rights-based approach to rescue and reintegration would ensure that children are never detained and also have a clear voice in decision-making processes. This approach would emphasize careful and rights respecting rescue procedures integrated with appropriate transitional services. It would include the provision of health services geared to facilitating the child's recovery from the trauma of exploitation, as well as carefully supervised access to educational opportunity, safe and supportive accommodation and broader poverty-reduction initiatives that target prevention. As one government official commented: "This issue has been dealt under labor laws and we cannot provide rehabilitation to children, so the situation becomes worse. We should see this issue from a protection perspective."

The systems approach advanced in this report considers the child, family and community as a whole and emphasizes the cost-effectiveness of strategies based on the coordination of poverty reduction measures, social welfare and child protection inputs. Programs to deliver sustained access to justice, to higher education and skill development opportunities, and to productive and protected employment would also constitute an essential element in the reintegration process. In addition to these overarching measures, special attention would also have to be directed towards distinctive challenges caused by marginalization and discrimination based on caste, race, ethnicity, gender or other characteristics.

ORGANIZATIONAL FAILURES

- **Lack of clear accountability.** At the macro level, no one office or individual is responsible for the overarching coordination of this multi-stage and logistically challenging process. In the absence of accountability clearly assigned to implementing departments and without consistent and effective monitoring of services delivered, government stakeholders routinely evade responsibility, deflecting blame for protection failures to agencies other than their own or to the nonprofit sector. Meanwhile, children receive a series of poorly thought through, disjointed and fragmented services, if they do not fall through the cracks entirely.

The systems approach advanced in this report considers the child, family and community as a whole.



Children sleep at a shelter in Bihar.

Although the mandate for ensuring careful rescue and sustained and comprehensive reintegration is technically assigned to the Anti Human Trafficking Units, the survey presented in this report clearly demonstrates that these units are comprehensively failing to fulfill this mandate. The AHTUs lack clear guidelines, adequate supervision and monitoring, and necessary resources, undermining their efficient work.

- **Lack of inter-agency coordination.** Because there is no established protocol for regular communication between relevant implementing partners, stakeholders do not work together to implement the child’s rescue and reintegration plan in a holistic manner. Stakeholders separated by distance and sometimes language, affiliated with diverse organizations, do not collaborate to keep records of the services that individual children have already received or what their specific immediate and long-term needs are. In 2014, the Ministry of Home Affairs launched an online human trafficking portal to coordinate efforts of state and national government agencies. This has yet to have a significant impact on these coordination failures.
- **Lack of training.** Another crucial issue identified by the FXB study is a lack of standardized training programs for implementing partners, that include information about the different responsible partners for service provision, the content of policy requirements, and standards for implementation. As a result, personnel administering services to trafficked children lack a thorough and reliable grasp of relevant policies and regulations; and they frequently fail to take advantage of resources that could be utilized to promote more effective interventions.

Earlier, departments used to say that they have shortage of manpower ... But in last 3 to 4 years, this gap has been filled. In my opinion, labor officers have so many responsibilities but they should be trained ... there should be some orientation programming or something like refresher training program for them. (Government Official)

POORLY STRUCTURED NGO-GOVERNMENT PARTNERSHIPS

Much of the rescue and reintegration work is conducted by the nonprofit sector, which, though usually a committed and innovative provider of services for trafficked children, is not sufficiently integrated with government entities to provide the level of consistent, transparent or sustainable care needed over the long term. Innovative nonprofit initiatives are not adequately supported or scaled into state policy. Equally, nonprofit initiatives that do not meet acceptable standards for working with vulnerable children are not subject to independent monitoring or evaluation. As one NGO respondent commented, “There are so many NGOs active in this field but they don’t care about proper system developing.” Ultimately, as the UN Special Rapporteur on the sale of children, child prostitution and child pornography noted in her July 2015 report to the UN General Assembly:

“States bear the primary responsibility in the design and implementation of programmes, policies and services to ensure the right to care, recovery and reintegration of children, including their timely identification as victims.”¹¹⁹

Inadequate resources are not the principal barrier to effective intervention. Rather, resources are ineffectively allocated.

INSUFFICIENT HUMAN AND FINANCIAL RESOURCES

Rescue and reintegration services could undoubtedly benefit from larger and more consistent funding support. This is particularly necessary to support bridge schools, income generation projects for families, health services for families and rescued children, government and nonprofit shelters, legal services to secure compensation and effective prosecution of abusive traffickers and employers, and independent monitoring and evaluation of programs.

Yet this study encouragingly suggests that inadequate resources are not the principal barrier to effective intervention. Rather, resources are *ineffectively allocated*, with the result that opportunities for protection and sustainable reintegration are squandered. For example, funding to compensate children and their families post-rescue rarely reaches intended beneficiaries.

¹¹⁹ UN Human Rights Council, *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography*, Maud de Boer-Buquicchio, 7.

LACK OF CENTRALIZED INFORMATION SYSTEMS

Stakeholders consistently pointed to the lack of reliable data as a barrier to creating targeted and effective anti-trafficking policy. Failures of information sharing between agencies also present problems for the creation of long-term, integrated reintegration plans. A central reporting system would reduce confusion by replacing the wide variety of case reporting forms used by police, medical practitioners and social workers with one centralized system.

The Ministry for Women, Children and Development, under the ICPS, is developing a system for child protection data management and reporting as well as a tool for monitoring the implementation of all its child protection schemes. Stakeholders surveyed did not display knowledge of this new system or its impacts.

WEAK POLICY FRAMEWORKS

In addition to implementation failures, this project also identified several deficiencies in the wording and structure of Indian policy and legal frameworks themselves.

RAIDS

- A. Protocols do not provide detailed standard operating procedures for raids. The roles and responsibility of each individual and team are not assigned, undermining strong coordination at the outset between police teams, prosecutors, interpreters, and victim service providers.
- B. Protocols do not specify the optimal timing of raids, and the modalities that apply to different locations in which raids are carried out (means of transport to destination state vs factories where child labor is taking place).
- C. There is no clear elaboration of appropriate shelter locations for rescued children, or of the services that have to be provided to them during and immediately after the rescue procedure.
- D. There is no clear identification of the agency responsible for accompanying the rescued child back to the state of origin.



REINTEGRATION

- A. Reintegration is treated as a fixed, short-term process, so the long-term needs of children and their families are not addressed.
- B. The potential risks of returning trafficked children to their families are not carefully incorporated into decision-making processes.
- C. Standards for appropriate alternative accommodation are not articulated and no monitoring and evaluation mechanisms are required for shelters.
- D. There are no guidelines for coordination of educational reintegration programs with formal schools. Policies do not adequately address the curricular and teacher training issues that reintegration of trafficked children raise.
- E. Policies do not provide children who have never had an opportunity to attend school with dedicated services to facilitate the integration into a system of learning.
- F. No financial, emotional, or logistical support is offered to the families of returned children.
- G. The challenge of supporting the family's economic reintegration is reduced to the provision of lump sum compensation, which may or may not ever reach the family. Little official guidance is offered on how this should be delivered.
- H. The acute health needs of rescued children, both physical and psychological, are acknowledged as an afterthought, without concrete policy initiatives to ensure delivery of suitable services.

VII. RECOMMENDATIONS

The following recommendations are made with the objective of improving not only the systemic process of rescue and reintegration of children trafficked for labor in India, but also to increase success in current rescue/reintegration practices. While we acknowledge that human and financial resource limitations may preclude achieving all of the goals established under Indian law relating to rescue and reintegration, we urge that serious consideration for the following recommendations be undertaken by the Indian legislature as it contemplates amendments to the relevant laws. Note that these recommendations are based on information gleaned from interview participants, as well as from our studied assessment of evident gaps in service provision.

GENERAL RECOMMENDATIONS

1. Ensure that all rescue and reintegration operations are carried out in a consistent and rights protective manner and that children's wishes are meaningfully incorporated into procedures.
2. Provide long-term and dependable funding support for rescue and reintegration initiatives.
3. Create one office or post that has final and overarching responsibility for the oversight, coordination and successful execution of rescue and reintegration operations. The Anti Human Trafficking Units are currently failing in their mandate to fulfill the position. The office of the responsible official charged with this principal oversight should:
 - A. Supervise thorough training programs for all key stakeholders on their respective roles and responsibilities and on the challenges facing child victims of trafficking.
 - B. Help to institutionalize more efficient cross-department communication regarding raid operations, individual children's cases, successful initiatives and challenges in service provision.
 - C. Allocate adequate, long-term funds and resources to programs.
 - D. Supervise the monitoring and evaluating of all rescue and reintegration efforts.
 - E. Ensure the implementation of existing programs, identify areas for improvement and report to parliament or other higher office on the efficacy of existing efforts.

4. Create standard operating protocols for the post-rescue care and reintegration responsibilities of the Child Welfare Committees. The CWCs are already empowered by the Juvenile Justice Act and the absence of such guidelines contributes to lack of awareness, failures in service provision and situations of conflict between the law enforcement agencies, NGOs and the CWCs.
5. Create centralized data collection and intelligence systems to support rescue and reintegration operations. Direct action against child trafficking for labor cannot be effective in the long run without a robust intelligence system, which includes both police and non-police monitoring. This allows a shift from reactive raids, based on tipoffs, to proactive investigations and targeting of criminal networks. This centralized information system should include:
 - A. Details of available regional resources for the implementation of raids and delivery of reintegration services, including vetted NGO partners with relevant expertise and capacity, lists of safe accommodation, medical facilities, transit facilities and schools participating in appropriate bridge and reintegration education programs.
 - B. A “rich picture” of the child trafficking for labor situation, including surveillance, and a mapping of areas of high risk, and of employers who have been found to employ child laborers. This list could be made publicly available to provide strong disincentives for employers to use child labor and to inform and deter potential investors considering collaborations with companies that use child labor.
 - C. Details of NGOs and community-level actors such as the panchayats who are involved in combating child labor exploitation and trafficking, and who might contribute to a grassroots system that incentivizes bottom up fact gathering, and the building of alliances that weaken or eliminate caste loyalties.
6. Complement a victim-centered approach with greater emphasis on criminal accountability and the pursuit of more frequent convictions and harsher sentences for traffickers and exploitative employers.
7. Reduce dependency by the state on the nonprofit sector for rescue and reintegration services and formalize standards for government-NGO partnerships in the rescue and reintegration process:
 - A. Establish criteria for evaluating NGO’s that seek government funding for rescue and reintegration operations. Such criteria would probe a range of relevant factors including financial status, operational capacity, past experience of working with at-risk children, monitoring and evaluation procedures to track organizational impact, staff turnover and community ties.
 - B. Provide incentives for ongoing obligations with regards data collection, monitoring and evaluation.
 - C. Establish guidelines for scaling successful practices based on existing best practices.

Direct action against child trafficking for labour cannot be effective in the long run without a robust intelligence system, which includes both police and non-police monitoring.

8. Engage community-level actors and resources more systematically in the rescue and reintegration process. Village-level actors should:
 - A. Identify victims of child labor through reporting to Childline. Community knowledge is currently underused in prevention so efforts to strength levels of trust in reporting systems will be essential;
 - B. Assist CWCs in home verification and assessments;
 - C. Maintain a list of rescued children and connect them and their families to existing reintegration services, in particular, bridge schools, vocational training programs, economic reintegration programs and health services;
 - D. Ensure that children do not return to work and alert relevant authorities if a child is known to have been (re)trafficked; or
 - E. Conduct community awareness-raising initiatives regarding the problem of child labor and child trafficking.
9. Complement economic reintegration measures with comprehensive preventative policies for poverty reduction and increased educational access in areas most affected by child labor trafficking.

RESCUE OPERATIONS RECOMMENDATIONS

10. Strengthen alternatives to raid/rescue. For example, proactive workplace monitoring by labor departments officials can be an effective deterrent and enforcement mechanism to prevent exploitation.
11. Develop guidelines for rescue operations conducted while children are in transit to sites of exploitation.

PRE-RESCUE PLANNING

12. Create detailed SOPs (Standard Operating Protocols) for rescue operations that designate clear responsibilities and outline requirements for team size and composition, the execution of raids and the immediate care for children. Advance planning is an essential component of a child-friendly and successful rescue operation. In particular, a police officer should always be present during a raid to oversee collection of evidence for criminal proceedings.
13. Articulate separate protocols for rescue operations carried out while children are in transit, distinguished from those for children who have already reached the site of exploitation.
14. Involve AHTUs and local police in verifying information tip-offs regarding instances of child trafficking for labor. Raids should take place as soon as possible after information is confirmed.

RAID EXECUTION

15. Raids should ideally take place in the morning to minimize public attention to the rescue operation and trauma caused to children that are woken from sleep.
16. Strengthen confidentiality measures during both pre-rescue planning and raid execution to ensure that employers are never preemptively alerted to an imminent raid and that children's identities are protected. Issue clear guidelines to media representatives surrounding the kinds of information that can be publicized about a raid and the importance of protecting the identity of vulnerable children.
17. Ensure that each rescue team includes an individual able to communicate with children in their own language, or, alternatively, that team members can easily contact an interpreter.

IMMEDIATE POST-RESCUE CARE

18. Never transfer children to police stations following rescue, but instead to a child-friendly environment. Shelters should serve as the single site for all different post-rescue needs, including interviews for the purpose of prosecution, therapy, medical examinations and other treatment.
19. As necessary, ensure that an interpreter is present for all key post-rescue events such as doctors appointments and interviews to explain proceedings to the child and communicate their needs and wishes to relevant authorities.
20. Ensure that a thorough immediate post-rescue medical check up is completed, including mental and physical health, and that notes are made available on a strictly confidential basis to health providers in bridge schools where children are transferred.
21. Ensure that all staff in shelters where children are initially transferred receive training in trauma prevention and child-friendly care.

PRESENTATION BEFORE THE CWC AND CRIMINAL INVESTIGATIONS

22. File First Information Reports in all cases of trafficked child rescue from labor as an essential first step for criminal prosecutions. As the responsible party for this task, Labour Department officials should receive training on relevant procedures.
23. Only require children to give their statement once, after they have received trauma counseling. This statement should be recorded and used both for creation of a child-specific reintegration plan as well as for eventual criminal prosecution. Crucially, this statement should never be made available to the media.



Three trafficking survivors at their permanent shelter in Bihar, where they attend school.

- 24. Ensure that judicial authorities clarify whether the child’s recorded statement is sufficient for criminal prosecution, or if the child needs to be give evidence directly. In the latter case, if direct participation of the child is absolutely necessary, ensure that video conferencing at the district level enables trafficking victims to avoid having to personally appear for testifying and cross examination

REINTEGRATION RECOMMENDATIONS

- 25. Commitment to reintegration procedures as an essential, multifaceted and long-term process must be institutionalized in order to prevent re-trafficking. This must be achieved through comprehensive training of relevant stakeholders and increased oversight, accountability and monitoring of reintegration efforts.

ACCOMMODATION

- 26. Conduct thorough home assessments in all cases to ensure that children are not returned to environments that put them at risk. Children’s wishes should be carefully considered as part of accommodation decisions and appropriately weighed giving due regard to the best interests of the child.
- 27. Offer basic support to parents of rescued children through reintegration plans, involving education on the issues facing rescued children, financial and skill training, and liaison with educational and health facilities.
- 28. Families of trafficked children should receive follow-up visits to ensure that children have not been re-trafficked and that appropriate reintegration and family support services are delivered.

Commitment to reintegration procedures as an essential, multifaceted and long-term process must be institutionalized in order to prevent re-trafficking.

29. Frame model Minimum Standards of Victim Care for shelter homes managed either by the government or the civil society. The State of Andhra Pradesh has put in place Minimum Standards of Care in shelter homes of victims of trafficking that might serve as an example.¹²⁰
30. Ensure more frequent and rigorous monitoring and evaluation of shelters. This should be conducted by an objective statutory body, rather than an NGO.

INTER-STATE TRANSFER

31. Create clear standard operating guidelines for the planning, execution and funding of inter-state transfer operations.

EDUCATIONAL REINTEGRATION

32. Place every rescued child in a bridge school program and clarify responsibility for enrollment. Parents must receive support from CWCs in the procedural aspects of education enrollment and also information on the benefits of education. If there are no available bridge schools nearby, then children should be placed in a residential bridge school until mainstreaming is possible. Single-sex institutions may meet the needs of rescued children more effectively than coeducational ones.
33. All key stakeholders must receive training on the Right to Education Act 2009 in order to underscore the state obligation to provide all children under 14 with an education.
34. Geographically map existing bridge school programs and significantly expand them in the areas that are not covered. Match each NCLP or SSA school to one or two nearby formal schools which serve as partners in mainstreaming rescued children, coordinating curricula between schools and teacher training.
35. Increase financial and training support for teachers in bridge schools. This could be achieved through expansion of existing educational and research training programs offered by the NCERT (National Council of Educational Research and Training) and the Mahila Samakhya Programme¹²¹, to establish joint initiatives for formal school teachers and the volunteer teachers from bridge schools. These should raise awareness of the specific education and health needs of rescued children, facilitate mainstreaming, and ensure adequate follow-up care after children have entered the formal school system.

¹²⁰ UNODC, *Current Status of Victim Service Providers and Criminal Justice Actors in India on Anti Human Trafficking*, 9.

¹²¹ Mahila Samakhya is a Government program that uses education to empower young women to achieve basic equality. It particularly targets out-of-school girls and is active in 12,000 villages, over 60 districts in 9 states. See Government of India "Mahila Samakhya," accessed on January 31, 2016, <http://www.archive.india.gov.in/sectors/education/index.php?id=16>.

36. Allow children to enter into formal schools at different levels appropriate for their age and stage of educational development, rather than entering all rescued children into the same standard.
37. Create standardized guidelines that stipulate the circumstances under which vocational training is an appropriate addition to / substitute for non-formal education for adolescent children, and the kinds of training that should be provided (e.g. based on assessment of market needs, attentive to special needs of vulnerable children). Ensure that vocational training programs are accessible to children and involve minimal disturbance of secondary schooling. Where possible, connect vocational training programs to existing employers that can offer future opportunities in local communities.
38. Ensure that cases are not closed until children have been successfully mainstreamed into formal education and adequate follow up has been carried out. At minimum, cases should be closed after one year of formal schooling.

ECONOMIC SUPPORT

39. Create clear guidelines for the transfer and receipt of cash transfers for families of rescued children. Train stakeholders on the different obligations of the state and former employer with regards to economic reintegration. Eliminate/ simplify administrative obligations on families to gain access to funds, and ensure adequate professional assistance where needed.

HEALTH NEEDS

40. Organize specific provisions for long-term, personalized health care in bridge schools. This will require formalizing partnerships with health providers (counselors, pediatricians) to make regular visits to bridge schools. The health programs in KGBV schools can serve as a useful precedent (see page 39).



The FXB Center for Health and Human Rights at Harvard University is an interdisciplinary center that conducts rigorous investigation of the most serious threats to health and wellbeing globally. We work closely with scholars, students, the international policy community, and civil society to engage in ongoing strategic efforts to promote equity and dignity for those oppressed by grave poverty and stigma around the world.

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